

1                                   A bill to be entitled  
 2           An act relating to residential properties; amending s.  
 3           399.02, F.S.; exempting certain elevators from  
 4           specific code update requirements; amending s.  
 5           718.111, F.S.; revising the requirement for physical  
 6           documents to be provided to an association member;  
 7           increasing the minimum total annual revenues required  
 8           for different categories of financial statements;  
 9           amending s. 718.112, F.S.; revising provisions  
 10          relating to the terms of condominium board of  
 11          administration members; revising condominium unit  
 12          owner meeting notice requirements; providing for  
 13          nonapplicability to associations governing timeshare  
 14          condominiums of certain provisions relating to  
 15          elections of board members; revising recordkeeping  
 16          requirements of a condominium association board;  
 17          requiring commencement of challenges to an election  
 18          within a specified period; providing requirements for  
 19          challenging the failure of a board to duly notice and  
 20          hold the required board meeting or to file the  
 21          required petition for a recall; providing requirements  
 22          for recalled board members to challenge the recall;  
 23          prohibiting the Divisions of Florida Condominiums,  
 24          Timeshares, and Mobile Homes of the Department of  
 25          Business and Professional Regulation from accepting  
 26          recall petitions for filing under certain  
 27          circumstances; amending s. 718.113, F.S.; providing  
 28          requirements for a condominium association board

29 relating to the installation of hurricane shutters,  
 30 impact glass, code-compliant windows or doors, and  
 31 other types of code-compliant hurricane protection  
 32 under certain circumstances; amending s. 718.115,  
 33 F.S.; conforming provisions to changes made by the  
 34 act; amending s. 718.303, F.S.; revising provisions  
 35 relating to imposing remedies against a noncompliant  
 36 or delinquent condominium unit owner or member;  
 37 amending s. 718.403, F.S.; providing requirements for  
 38 the completion of phase condominiums; creating s.  
 39 718.406, F.S.; providing definitions; providing  
 40 requirements for condominiums created within  
 41 condominium parcels; providing for the establishment  
 42 of primary condominium and secondary condominium  
 43 units; providing requirements for association  
 44 declarations; authorizing a primary condominium  
 45 association to provide insurance and adopt hurricane  
 46 shutter or hurricane protection specifications under  
 47 certain conditions; providing requirements relating to  
 48 assessments; providing for resolution of conflicts  
 49 between primary condominium declarations and secondary  
 50 condominium declarations; providing requirements  
 51 relating to common expenses due the primary  
 52 condominium association; amending s. 718.5011, F.S.;  
 53 revising the restriction on officers and full-time  
 54 employees of the ombudsman from engaging in other  
 55 businesses or profession; amending s. 719.104, F.S.;  
 56 revising the requirement for physical documents to be

57 | provided to an association member; specifying  
58 | additional records that are not accessible to unit  
59 | owners; amending s. 719.1055, F.S.; revising  
60 | provisions relating to the amendment of cooperative  
61 | documents; providing legislative findings and a  
62 | finding of compelling state interest; providing  
63 | criteria for a consent or joinder to an amendment;  
64 | requiring notice regarding proposed amendments to  
65 | mortgagees; providing criteria for notification;  
66 | providing for voiding certain amendments; amending s.  
67 | 719.106, F.S.; revising applicability of certain board  
68 | of administration meeting requirements; requiring  
69 | commencement of challenges to an election within a  
70 | specified period; providing requirements for  
71 | challenging the failure of a board to duly notice and  
72 | hold the required board meeting or to file the  
73 | required petition for a recall; providing requirements  
74 | for recalled board members to challenge the recall;  
75 | prohibiting the division from accepting recall  
76 | petitions for filing under certain circumstances;  
77 | providing education requirements for board members;  
78 | amending s. 719.303, F.S.; revising provisions  
79 | relating to imposing remedies against a noncompliant  
80 | or delinquent cooperative unit owner or member;  
81 | amending s. 720.303, F.S.; revising the requirement  
82 | for physical documents to be provided to an  
83 | association member; increasing the minimum total  
84 | annual revenues required for different categories of

85 financial statements; revising the types of records  
 86 that are not accessible to homeowners' association  
 87 members and parcel owners; providing requirements for  
 88 challenging the failure of a board to duly notice and  
 89 hold the required board meeting or to file the  
 90 required petition for a recall; providing requirements  
 91 for recalled board members to challenge the recall;  
 92 prohibiting the division from accepting recall  
 93 petitions for filing under certain circumstances;  
 94 amending s. 720.305, F.S.; revising provisions  
 95 relating to imposing remedies against a noncompliant  
 96 or delinquent homeowners' association member and  
 97 parcel owner; amending s. 720.306, F.S.; revising  
 98 provisions relating to the amendment of homeowners'  
 99 association declarations; providing legislative  
 100 findings and a finding of compelling state interest;  
 101 providing criteria for consent or joinder to an  
 102 amendment; requiring notice to mortgages regarding  
 103 proposed amendments; providing criteria for  
 104 notification; providing for voiding certain  
 105 amendments; revising provisions relating to right to  
 106 speak at a homeowners' association meeting; requiring  
 107 commencement of challenges to an election within a  
 108 specified period; providing an effective date.

110 Be It Enacted by the Legislature of the State of Florida:

112 Section 1. Subsection (9) of section 399.02, Florida

113 Statutes, is amended to read:

114 399.02 General requirements.—

115 (9) Updates to the Safety Code for Existing Elevators and  
 116 Escalators, ASME A17.1 and A17.3, which require Phase II  
 117 Firefighters' Service on elevators may not be enforced ~~until~~  
 118 ~~July 1, 2015, or~~ until the elevator is replaced or requires  
 119 major modification, ~~whichever occurs first,~~ on elevators in  
 120 condominiums or multifamily residential buildings, including  
 121 those that are part of a continuing care facility licensed under  
 122 chapter 651, or similar retirement community with apartments,  
 123 having a certificate of occupancy by the local building  
 124 authority that was issued before July 1, 2008. This exception  
 125 does not prevent an elevator owner from requesting a variance  
 126 from the applicable codes ~~before or after July 1, 2015.~~ This  
 127 subsection does not prohibit the division from granting  
 128 variances pursuant to s. 120.542 and subsection (8). The  
 129 division shall adopt rules to administer this subsection.

130 Section 2. Paragraph (c) of subsection (12) and paragraphs  
 131 (a) and (b) of subsection (13) of section 718.111, Florida  
 132 Statutes, is amended to read:

133 718.111 The association.—

134 (12) OFFICIAL RECORDS.—

135 (c) The official records of the association are open to  
 136 inspection by any association member or the authorized  
 137 representative of such member at all reasonable times. The right  
 138 to inspect the records includes the right to make or obtain  
 139 copies, at the reasonable expense, if any, of the member. The  
 140 association may adopt reasonable rules regarding the frequency,

141 time, location, notice, and manner of record inspections and  
 142 copying. The failure of an association to provide the records  
 143 within 10 working days after receipt of a written request  
 144 creates a rebuttable presumption that the association willfully  
 145 failed to comply with this paragraph. A unit owner who is denied  
 146 access to official records is entitled to the actual damages or  
 147 minimum damages for the association's willful failure to comply.  
 148 Minimum damages are \$50 per calendar day for up to 10 days,  
 149 beginning on the 11th working day after receipt of the written  
 150 request. The failure to permit inspection entitles any person  
 151 prevailing in an enforcement action to recover reasonable  
 152 attorney's fees from the person in control of the records who,  
 153 directly or indirectly, knowingly denied access to the records.  
 154 Any person who knowingly or intentionally defaces or destroys  
 155 accounting records that are required by this chapter to be  
 156 maintained during the period for which such records are required  
 157 to be maintained, or who knowingly or intentionally fails to  
 158 create or maintain accounting records that are required to be  
 159 created or maintained, with the intent of causing harm to the  
 160 association or one or more of its members, is personally subject  
 161 to a civil penalty pursuant to s. 718.501(1)(d). The association  
 162 shall maintain an adequate number of copies of the declaration,  
 163 articles of incorporation, bylaws, and rules, and all amendments  
 164 to each of the foregoing, as well as the question and answer  
 165 sheet as described in s. 718.504 and year-end financial  
 166 information required under this section, on the condominium  
 167 property to ensure their availability to unit owners and  
 168 prospective purchasers, and may charge its actual costs for

169 preparing and furnishing these documents to those requesting the  
170 documents. Any association member or the authorized  
171 representative of such member may utilize smartphones, tablets,  
172 portable scanners, or other technology capable of scanning or  
173 taking pictures in lieu of the association providing copies to  
174 the association member or the authorized representative of such  
175 member. In no event should the association be able to charge a  
176 member or the member's authorized representative for the use of  
177 his or her portable devices. Notwithstanding this paragraph, the  
178 following records are not accessible to unit owners:

179 1. Any record protected by the lawyer-client privilege as  
180 described in s. 90.502 and any record protected by the work-  
181 product privilege, including a record prepared by an association  
182 attorney or prepared at the attorney's express direction, which  
183 reflects a mental impression, conclusion, litigation strategy,  
184 or legal theory of the attorney or the association, and which  
185 was prepared exclusively for civil or criminal litigation or for  
186 adversarial administrative proceedings, or which was prepared in  
187 anticipation of such litigation or proceedings until the  
188 conclusion of the litigation or proceedings.

189 2. Information obtained by an association in connection  
190 with the approval of the lease, sale, or other transfer of a  
191 unit.

192 3. Personnel records of association or management company  
193 employees, including, but not limited to, disciplinary, payroll,  
194 health, and insurance records. For purposes of this  
195 subparagraph, the term "personnel records" does not include  
196 written employment agreements with an association employee or

197 management company, or budgetary or financial records that  
 198 indicate the compensation paid to an association employee.

199 4. Medical records of unit owners.

200 5. Social security numbers, driver's license numbers,  
 201 credit card numbers, e-mail addresses, telephone numbers,  
 202 facsimile numbers, emergency contact information, addresses of a  
 203 unit owner other than as provided to fulfill the association's  
 204 notice requirements, and other personal identifying information  
 205 of any person, excluding the person's name, unit designation,  
 206 mailing address, property address, and any address, e-mail  
 207 address, or facsimile number provided to the association to  
 208 fulfill the association's notice requirements. However, an owner  
 209 may consent in writing to the disclosure of protected  
 210 information described in this subparagraph. The association is  
 211 not liable for the inadvertent disclosure of information that is  
 212 protected under this subparagraph if the information is included  
 213 in an official record of the association and is voluntarily  
 214 provided by an owner and not requested by the association.

215 6. Electronic security measures that are used by the  
 216 association to safeguard data, including passwords.

217 7. The software and operating system used by the  
 218 association which allow the manipulation of data, even if the  
 219 owner owns a copy of the same software used by the association.  
 220 The data is part of the official records of the association.

221 (13) FINANCIAL REPORTING.—Within 90 days after the end of  
 222 the fiscal year, or annually on a date provided in the bylaws,  
 223 the association shall prepare and complete, or contract for the  
 224 preparation and completion of, a financial report for the

225 preceding fiscal year. Within 21 days after the final financial  
226 report is completed by the association or received from the  
227 third party, but not later than 120 days after the end of the  
228 fiscal year or other date as provided in the bylaws, the  
229 association shall mail to each unit owner at the address last  
230 furnished to the association by the unit owner, or hand deliver  
231 to each unit owner, a copy of the financial report or a notice  
232 that a copy of the financial report will be mailed or hand  
233 delivered to the unit owner, without charge, upon receipt of a  
234 written request from the unit owner. The division shall adopt  
235 rules setting forth uniform accounting principles and standards  
236 to be used by all associations and addressing the financial  
237 reporting requirements for multicondominium associations. The  
238 rules must include, but not be limited to, standards for  
239 presenting a summary of association reserves, including a good  
240 faith estimate disclosing the annual amount of reserve funds  
241 that would be necessary for the association to fully fund  
242 reserves for each reserve item based on the straight-line  
243 accounting method. This disclosure is not applicable to reserves  
244 funded via the pooling method. In adopting such rules, the  
245 division shall consider the number of members and annual  
246 revenues of an association. Financial reports shall be prepared  
247 as follows:

248 (a) An association that meets the criteria of this  
249 paragraph shall prepare a complete set of financial statements  
250 in accordance with generally accepted accounting principles. The  
251 financial statements must be based upon the association's total  
252 annual revenues, as follows:

253 1. An association with total annual revenues of \$200,000  
 254 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
 255 compiled financial statements.

256 2. An association with total annual revenues of at least  
 257 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall  
 258 prepare reviewed financial statements.

259 3. An association with total annual revenues of \$500,000  
 260 ~~\$400,000~~ or more shall prepare audited financial statements.

261 (b)1. An association with total annual revenues of less  
 262 than \$200,000 ~~\$100,000~~ shall prepare a report of cash receipts  
 263 and expenditures.

264 2. An association that operates fewer than 75 units,  
 265 regardless of the association's annual revenues, shall prepare a  
 266 report of cash receipts and expenditures in lieu of financial  
 267 statements required by paragraph (a).

268 3. A report of cash receipts and disbursements must  
 269 disclose the amount of receipts by accounts and receipt  
 270 classifications and the amount of expenses by accounts and  
 271 expense classifications, including, but not limited to, the  
 272 following, as applicable: costs for security, professional and  
 273 management fees and expenses, taxes, costs for recreation  
 274 facilities, expenses for refuse collection and utility services,  
 275 expenses for lawn care, costs for building maintenance and  
 276 repair, insurance costs, administration and salary expenses, and  
 277 reserves accumulated and expended for capital expenditures,  
 278 deferred maintenance, and any other category for which the  
 279 association maintains reserves.

280 (c) An association may prepare, without a meeting of or

281 approval by the unit owners:

282 1. Compiled, reviewed, or audited financial statements, if  
 283 the association is required to prepare a report of cash receipts  
 284 and expenditures;

285 2. Reviewed or audited financial statements, if the  
 286 association is required to prepare compiled financial  
 287 statements; or

288 3. Audited financial statements if the association is  
 289 required to prepare reviewed financial statements.

290 (d) If approved by a majority of the voting interests  
 291 present at a properly called meeting of the association, an  
 292 association may prepare:

293 1. A report of cash receipts and expenditures in lieu of a  
 294 compiled, reviewed, or audited financial statement;

295 2. A report of cash receipts and expenditures or a  
 296 compiled financial statement in lieu of a reviewed or audited  
 297 financial statement; or

298 3. A report of cash receipts and expenditures, a compiled  
 299 financial statement, or a reviewed financial statement in lieu  
 300 of an audited financial statement.

301  
 302 Such meeting and approval must occur before the end of the  
 303 fiscal year and is effective only for the fiscal year in which  
 304 the vote is taken, except that the approval may also be  
 305 effective for the following fiscal year. With respect to an  
 306 association to which the developer has not turned over control  
 307 of the association, all unit owners, including the developer,  
 308 may vote on issues related to the preparation of financial

309 reports for the first 2 fiscal years of the association's  
 310 operation, beginning with the fiscal year in which the  
 311 declaration is recorded. Thereafter, all unit owners except the  
 312 developer may vote on such issues until control is turned over  
 313 to the association by the developer. Any audit or review  
 314 prepared under this section shall be paid for by the developer  
 315 if done before turnover of control of the association. An  
 316 association may not waive the financial reporting requirements  
 317 of this section for more than 3 consecutive years.

318 Section 3. Paragraphs (d) and (j) of subsection (2) of  
 319 section 718.112, Florida Statutes, are amended to read:

320 718.112 Bylaws.—

321 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the  
 322 following and, if they do not do so, shall be deemed to include  
 323 the following:

324 (d) Unit owner meetings.—

325 1. An annual meeting of the unit owners shall be held at  
 326 the location provided in the association bylaws and, if the  
 327 bylaws are silent as to the location, the meeting shall be held  
 328 within 45 miles of the condominium property. However, such  
 329 distance requirement does not apply to an association governing  
 330 a timeshare condominium.

331 2. Unless the bylaws provide otherwise, a vacancy on the  
 332 board caused by the expiration of a director's term shall be  
 333 filled by electing a new board member, and the election must be  
 334 by secret ballot. An election is not required if the number of  
 335 vacancies equals or exceeds the number of candidates. For  
 336 purposes of this paragraph, the term "candidate" means an

337 eligible person who has timely submitted the written notice, as  
 338 described in sub-subparagraph 4.a., of his or her intention to  
 339 become a candidate. Except in a timeshare condominium, or if the  
 340 staggered term of a board member does not expire until a later  
 341 annual meeting, or if all members' terms would otherwise expire  
 342 but there are no candidates, the terms of all board members  
 343 expire at the annual meeting, and such members may stand for  
 344 reelection unless prohibited by the bylaws. If the bylaws or  
 345 articles of incorporation permit ~~staggered~~ terms of no more than  
 346 2 years ~~and upon approval of a majority of the total voting~~  
 347 ~~interests~~, the association board members may serve 2-year  
 348 ~~staggered~~ terms. If the number of board members whose terms  
 349 expire at the annual meeting equals or exceeds the number of  
 350 candidates, the candidates become members of the board effective  
 351 upon the adjournment of the annual meeting. Unless the bylaws  
 352 provide otherwise, any remaining vacancies shall be filled by  
 353 the affirmative vote of the majority of the directors making up  
 354 the newly constituted board even if the directors constitute  
 355 less than a quorum or there is only one director. In a  
 356 condominium association of more than 10 units or in a  
 357 condominium association that does not include timeshare units or  
 358 timeshare interests, coowners of a unit may not serve as members  
 359 of the board of directors at the same time unless they own more  
 360 than one unit or unless there are not enough eligible candidates  
 361 to fill the vacancies on the board at the time of the vacancy.  
 362 Any unit owner desiring to be a candidate for board membership  
 363 must comply with sub-subparagraph 4.a. and must be eligible to  
 364 be a candidate to serve on the board of directors at the time of

365 the deadline for submitting a notice of intent to run in order  
 366 to have his or her name listed as a proper candidate on the  
 367 ballot or to serve on the board. A person who has been suspended  
 368 or removed by the division under this chapter, or who is  
 369 delinquent in the payment of any monetary obligation due to the  
 370 association fee, fine, or special or regular assessment as  
 371 provided in paragraph (n), is not eligible to be a candidate for  
 372 board membership and shall not be listed on the election ballot.  
 373 A person who has been convicted of any felony in this state or  
 374 in a United States District or Territorial Court, or who has  
 375 been convicted of any offense in another jurisdiction which  
 376 would be considered a felony if committed in this state, is not  
 377 eligible for board membership unless such felon's civil rights  
 378 have been restored for at least 5 years as of the date such  
 379 person seeks election to the board. The validity of an action by  
 380 the board is not affected if it is later determined that a board  
 381 member is ineligible for board membership due to having been  
 382 convicted of a felony.

383 3. The bylaws must provide the method of calling meetings  
 384 of unit owners, including annual meetings. Written notice must  
 385 include an agenda, must be mailed, hand delivered, or  
 386 electronically transmitted to each unit owner at least 14 days  
 387 before the annual meeting, and must be posted in a conspicuous  
 388 place on the condominium property at least 14 continuous days  
 389 before the annual meeting. Upon notice to the unit owners, the  
 390 board shall, by duly adopted rule, designate a specific location  
 391 on the condominium property or association property where all  
 392 notices of unit owner meetings shall be posted. This requirement

393 | does not apply if there is no condominium property or  
 394 | association property for posting notices. In lieu of, or in  
 395 | addition to, the physical posting of meeting notices, the  
 396 | association may, by reasonable rule, adopt a procedure for  
 397 | conspicuously posting and repeatedly broadcasting the notice and  
 398 | the agenda on a closed-circuit cable television system serving  
 399 | the condominium association. However, if broadcast notice is  
 400 | used in lieu of a notice posted physically on the condominium  
 401 | property, the notice and agenda must be broadcast at least four  
 402 | times every broadcast hour of each day that a posted notice is  
 403 | otherwise required under this section. If broadcast notice is  
 404 | provided, the notice and agenda must be broadcast in a manner  
 405 | and for a sufficient continuous length of time so as to allow an  
 406 | average reader to observe the notice and read and comprehend the  
 407 | entire content of the notice and the agenda. Unless a unit owner  
 408 | waives in writing the right to receive notice of the annual  
 409 | meeting, such notice must be hand delivered, mailed, or  
 410 | electronically transmitted to each unit owner. Notice for  
 411 | meetings and notice for all other purposes must be mailed to  
 412 | each unit owner at the address last furnished to the association  
 413 | by the unit owner, or hand delivered to each unit owner.  
 414 | However, if a unit is owned by more than one person, the  
 415 | association must provide notice to the address that the  
 416 | developer identifies for that purpose and thereafter as one or  
 417 | more of the owners of the unit advise the association in  
 418 | writing, or if no address is given or the owners of the unit do  
 419 | not agree, to the address provided on the deed of record. An  
 420 | officer of the association, or the manager or other person

421 providing notice of the association meeting, must provide an  
 422 affidavit or United States Postal Service certificate of  
 423 mailing, to be included in the official records of the  
 424 association affirming that the notice was mailed or hand  
 425 delivered in accordance with this provision.

426 4. The members of the board shall be elected by written  
 427 ballot or voting machine. Proxies may not be used in electing  
 428 the board in general elections or elections to fill vacancies  
 429 caused by recall, resignation, or otherwise, unless otherwise  
 430 provided in this chapter. This subparagraph does not apply to an  
 431 association governing a timeshare condominium.

432 a. At least 60 days before a scheduled election, the  
 433 association shall mail, deliver, or electronically transmit, by  
 434 separate association mailing or included in another association  
 435 mailing, delivery, or transmission, including regularly  
 436 published newsletters, to each unit owner entitled to a vote, a  
 437 first notice of the date of the election. Any unit owner or  
 438 other eligible person desiring to be a candidate for the board  
 439 must give written notice of his or her intent to be a candidate  
 440 to the association at least 40 days before a scheduled election.  
 441 Together with the written notice and agenda as set forth in  
 442 subparagraph 3., the association shall mail, deliver, or  
 443 electronically transmit a second notice of the election to all  
 444 unit owners entitled to vote, together with a ballot that lists  
 445 all candidates. Upon request of a candidate, an information  
 446 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
 447 furnished by the candidate at least 35 days before the election,  
 448 must be included with the mailing, delivery, or transmission of

449 the ballot, with the costs of mailing, delivery, or electronic  
450 transmission and copying to be borne by the association. The  
451 association is not liable for the contents of the information  
452 sheets prepared by the candidates. In order to reduce costs, the  
453 association may print or duplicate the information sheets on  
454 both sides of the paper. The division shall by rule establish  
455 voting procedures consistent with this sub-subparagraph,  
456 including rules establishing procedures for giving notice by  
457 electronic transmission and rules providing for the secrecy of  
458 ballots. Elections shall be decided by a plurality of ballots  
459 cast. There is no quorum requirement; however, at least 20  
460 percent of the eligible voters must cast a ballot in order to  
461 have a valid election. A unit owner may not permit any other  
462 person to vote his or her ballot, and any ballots improperly  
463 cast are invalid. A unit owner who violates this provision may  
464 be fined by the association in accordance with s. 718.303. A  
465 unit owner who needs assistance in casting the ballot for the  
466 reasons stated in s. 101.051 may obtain such assistance. The  
467 regular election must occur on the date of the annual meeting.  
468 Notwithstanding this sub-subparagraph, an election is not  
469 required unless more candidates file notices of intent to run or  
470 are nominated than board vacancies exist.

471 b. Within 90 days after being elected or appointed to the  
472 board, each newly elected or appointed director shall certify in  
473 writing to the secretary of the association that he or she has  
474 read the association's declaration of condominium, articles of  
475 incorporation, bylaws, and current written policies; that he or  
476 she will work to uphold such documents and policies to the best

477 of his or her ability; and that he or she will faithfully  
478 discharge his or her fiduciary responsibility to the  
479 association's members. In lieu of this written certification,  
480 within 90 days after being elected or appointed to the board,  
481 the newly elected or appointed director may submit a certificate  
482 of having satisfactorily completed the educational curriculum  
483 administered by a division-approved condominium education  
484 provider within 1 year before or 90 days after the date of  
485 election or appointment. The written certification or  
486 educational certificate is valid and does not have to be  
487 resubmitted as long as the director serves on the board without  
488 interruption. A director who fails to timely file the written  
489 certification or educational certificate is suspended from  
490 service on the board until he or she complies with this sub-  
491 subparagraph. The board may temporarily fill the vacancy during  
492 the period of suspension. The secretary shall cause the  
493 association to retain a director's written certification or  
494 educational certificate for inspection by the members for 5  
495 years after a director's election or the duration of the  
496 director's uninterrupted tenure, whichever is longer. Failure to  
497 have such written certification or educational certificate on  
498 file does not affect the validity of any board action.

499 c. Any challenge to the election process must be commenced  
500 within 60 days after the election results are announced.

501 5. Any approval by unit owners called for by this chapter  
502 or the applicable declaration or bylaws, including, but not  
503 limited to, the approval requirement in s. 718.111(8), must be  
504 made at a duly noticed meeting of unit owners and is subject to

505 | all requirements of this chapter or the applicable condominium  
 506 | documents relating to unit owner decisionmaking, except that  
 507 | unit owners may take action by written agreement, without  
 508 | meetings, on matters for which action by written agreement  
 509 | without meetings is expressly allowed by the applicable bylaws  
 510 | or declaration or any law that provides for such action.

511 |         6. Unit owners may waive notice of specific meetings if  
 512 | allowed by the applicable bylaws or declaration or any law. If  
 513 | authorized by the bylaws, notice of meetings of the board of  
 514 | administration, unit owner meetings, except unit owner meetings  
 515 | called to recall board members under paragraph (j), and  
 516 | committee meetings may be given by electronic transmission to  
 517 | unit owners who consent to receive notice by electronic  
 518 | transmission.

519 |         7. Unit owners have the right to participate in meetings  
 520 | of unit owners with reference to all designated agenda items.  
 521 | However, the association may adopt reasonable rules governing  
 522 | the frequency, duration, and manner of unit owner participation.

523 |         8. A unit owner may tape record or videotape a meeting of  
 524 | the unit owners subject to reasonable rules adopted by the  
 525 | division.

526 |         9. Unless otherwise provided in the bylaws, any vacancy  
 527 | occurring on the board before the expiration of a term may be  
 528 | filled by the affirmative vote of the majority of the remaining  
 529 | directors, even if the remaining directors constitute less than  
 530 | a quorum, or by the sole remaining director. In the alternative,  
 531 | a board may hold an election to fill the vacancy, in which case  
 532 | the election procedures must conform to sub-subparagraph 4.a.

533 unless the association governs 10 units or fewer and has opted  
 534 out of the statutory election process, in which case the bylaws  
 535 of the association control. Unless otherwise provided in the  
 536 bylaws, a board member appointed or elected under this section  
 537 shall fill the vacancy for the unexpired term of the seat being  
 538 filled. Filling vacancies created by recall is governed by  
 539 paragraph (j) and rules adopted by the division.

540 10. This chapter does not limit the use of general or  
 541 limited proxies, require the use of general or limited proxies,  
 542 or require the use of a written ballot or voting machine for any  
 543 agenda item or election at any meeting of a timeshare  
 544 condominium association.

545  
 546 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
 547 association of 10 or fewer units may, by affirmative vote of a  
 548 majority of the total voting interests, provide for different  
 549 voting and election procedures in its bylaws, which may be by a  
 550 proxy specifically delineating the different voting and election  
 551 procedures. The different voting and election procedures may  
 552 provide for elections to be conducted by limited or general  
 553 proxy.

554 (j) Recall of board members.—Subject to ~~the provisions of~~  
 555 s. 718.301, any member of the board of administration may be  
 556 recalled and removed from office with or without cause by the  
 557 vote or agreement in writing by a majority of all the voting  
 558 interests. A special meeting of the unit owners to recall a  
 559 member or members of the board of administration may be called  
 560 by 10 percent of the voting interests giving notice of the

561 meeting as required for a meeting of unit owners, and the notice  
562 shall state the purpose of the meeting. Electronic transmission  
563 may not be used as a method of giving notice of a meeting called  
564 in whole or in part for this purpose.

565 1. If the recall is approved by a majority of all voting  
566 interests by a vote at a meeting, the recall will be effective  
567 as provided in this paragraph herein. The board shall duly  
568 notice and hold a board meeting within 5 full business days  
569 after ~~of~~ the adjournment of the unit owner meeting to recall one  
570 or more board members. At the meeting, the board shall either  
571 certify the recall, in which case such member or members shall  
572 be recalled effective immediately and shall turn over to the  
573 board within 5 full business days any and all records and  
574 property of the association in their possession, or shall  
575 proceed as set forth in subparagraph 3.

576 2. If the proposed recall is by an agreement in writing by  
577 a majority of all voting interests, the agreement in writing or  
578 a copy thereof shall be served on the association by certified  
579 mail or by personal service in the manner authorized by chapter  
580 48 and the Florida Rules of Civil Procedure. The board of  
581 administration shall duly notice and hold a meeting of the board  
582 within 5 full business days after receipt of the agreement in  
583 writing. At the meeting, the board shall either certify the  
584 written agreement to recall a member or members of the board, in  
585 which case such member or members shall be recalled effective  
586 immediately and shall turn over to the board within 5 full  
587 business days any and all records and property of the  
588 association in their possession, or proceed as described in

589 subparagraph 3.

590 3. If the board determines not to certify the written  
 591 agreement to recall a member or members of the board, or does  
 592 not certify the recall by a vote at a meeting, the board shall,  
 593 within 5 full business days after the meeting, file with the  
 594 division a petition for arbitration pursuant to the procedures  
 595 in s. 718.1255. For the purposes of this section, the unit  
 596 owners who voted at the meeting or who executed the agreement in  
 597 writing shall constitute one party under the petition for  
 598 arbitration. If the arbitrator certifies the recall as to any  
 599 member or members of the board, the recall will be effective  
 600 upon mailing of the final order of arbitration to the  
 601 association. If the association fails to comply with the order  
 602 of the arbitrator, the division may take action pursuant to s.  
 603 718.501. Any member or members so recalled shall deliver to the  
 604 board any and all records of the association in their possession  
 605 within 5 full business days after ~~of~~ the effective date of the  
 606 recall.

607 4. If the board fails to duly notice and hold a board  
 608 meeting within 5 full business days after ~~of~~ service of an  
 609 agreement in writing or within 5 full business days after ~~of~~ the  
 610 adjournment of the unit owner recall meeting, the recall shall  
 611 be deemed effective and the board members so recalled shall  
 612 immediately turn over to the board any and all records and  
 613 property of the association.

614 5. If the board fails to duly notice and hold the required  
 615 meeting or fails to file the required petition, the unit owner  
 616 representative may file a petition pursuant to s. 718.1255

617 challenging the board's failure to act. The petition must be  
 618 filed within 60 days after the expiration of the applicable 5-  
 619 full-business-day period. The review of a petition under this  
 620 subparagraph is limited to the sufficiency of service on the  
 621 board and the facial validity of the written agreement or  
 622 ballots filed.

623 6.5- If a vacancy occurs on the board as a result of a  
 624 recall or removal and less than a majority of the board members  
 625 are removed, the vacancy may be filled by the affirmative vote  
 626 of a majority of the remaining directors, notwithstanding any  
 627 provision to the contrary contained in this subsection. If  
 628 vacancies occur on the board as a result of a recall and a  
 629 majority or more of the board members are removed, the vacancies  
 630 shall be filled in accordance with procedural rules to be  
 631 adopted by the division, which rules need not be consistent with  
 632 this subsection. The rules must provide procedures governing the  
 633 conduct of the recall election as well as the operation of the  
 634 association during the period after a recall but before ~~prior to~~  
 635 the recall election.

636 7. A board member who has been recalled may file a  
 637 petition pursuant to s. 718.1255 challenging the validity of the  
 638 recall. The petition must be filed within 60 days after the  
 639 recall is deemed certified. The association and the unit owner  
 640 representative shall be named as the respondents.

641 8. The division may not accept for filing a recall  
 642 petition, whether filed pursuant to subparagraph 1.,  
 643 subparagraph 2., subparagraph 5., or subparagraph 7. and  
 644 regardless of whether the recall was certified, when there are

645 60 or fewer days until the scheduled reelection of the board  
 646 member sought to be recalled or when 60 or fewer days have  
 647 elapsed since the election of the board member sought to be  
 648 recalled.

649 Section 4. Subsection (5) of section 718.113, Florida  
 650 Statutes, is amended to read:

651 718.113 Maintenance; limitation upon improvement; display  
 652 of flag; hurricane shutters and protection; display of religious  
 653 decorations.—

654 (5) Each board of administration shall adopt hurricane  
 655 shutter specifications for each building within each condominium  
 656 operated by the association which shall include color, style,  
 657 and other factors deemed relevant by the board. All  
 658 specifications adopted by the board must comply with the  
 659 applicable building code.

660 (a) The board may, subject to ~~the provisions of s.~~  
 661 718.3026~~7~~, and the approval of a majority of voting interests of  
 662 the condominium, install hurricane shutters, impact glass, ~~or~~  
 663 ~~either~~ code-compliant windows or doors, or other types of code-  
 664 compliant hurricane protection that comply ~~complies~~ with or  
 665 exceed ~~exceeds~~ the applicable building code. However, a vote of  
 666 the owners is not required if the maintenance, repair, and  
 667 replacement of hurricane shutters, impact glass, ~~or other~~ code-  
 668 compliant windows or doors, or other types of code-compliant  
 669 hurricane protection are the responsibility of the association  
 670 pursuant to the declaration of condominium. If hurricane  
 671 protection or laminated glass or window film architecturally  
 672 designed to function as hurricane protection that ~~which~~ complies

673 with or exceeds the current applicable building code has been  
 674 previously installed, the board may not install hurricane  
 675 shutters, ~~hurricane protection, or impact glass, or other code-~~  
 676 compliant windows or doors, or other types of code-compliant  
 677 hurricane protection except upon approval by a majority vote of  
 678 the voting interests.

679 (b) The association is responsible for the maintenance,  
 680 repair, and replacement of the hurricane shutters, impact glass,  
 681 code-compliant windows or doors, or other types of code-  
 682 compliant hurricane protection authorized by this subsection if  
 683 such property hurricane shutters or other hurricane protection  
 684 is the responsibility of the association pursuant to the  
 685 declaration of condominium. If the hurricane shutters, impact  
 686 glass, code-compliant windows or doors, or other types of code-  
 687 compliant hurricane protection ~~authorized by this subsection~~ are  
 688 the responsibility of the unit owners pursuant to the  
 689 declaration of condominium, the maintenance, repair, and  
 690 replacement of such items are the responsibility of the unit  
 691 owner.

692 (c) The board may operate shutters, impact glass, code-  
 693 compliant windows or doors, or other types of code-compliant  
 694 hurricane protection installed pursuant to this subsection  
 695 without permission of the unit owners only if such operation is  
 696 necessary to preserve and protect the condominium property and  
 697 association property. The installation, replacement, operation,  
 698 repair, and maintenance of such shutters, impact glass, code-  
 699 compliant windows or doors, or other types of code-complaint  
 700 hurricane protection in accordance with the procedures set forth

701 in this paragraph are not a material alteration to the common  
 702 elements or association property within the meaning of this  
 703 section.

704 (d) Notwithstanding any other provision in the condominium  
 705 documents, if approval is required by the documents, a board may  
 706 not refuse to approve the installation or replacement of  
 707 hurricane shutters, impact glass, code-compliant windows or  
 708 doors, or other types of code-compliant hurricane protection by  
 709 a unit owner conforming to the specifications adopted by the  
 710 board.

711 Section 5. Paragraph (e) of subsection (1) of section  
 712 718.115, Florida Statutes, is amended to read:

713 718.115 Common expenses and common surplus.—

714 (1)

715 (e) The expense of installation, replacement, operation,  
 716 repair, and maintenance of hurricane shutters, impact glass,  
 717 code-compliant windows or doors, or other types of code-  
 718 compliant hurricane protection by the board pursuant to s.  
 719 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~  
 720 ~~defined herein~~ and shall be collected as provided in this  
 721 section if the association is responsible for the maintenance,  
 722 repair, and replacement of the hurricane shutters, impact glass,  
 723 code-compliant windows or doors, or other types of code-  
 724 compliant hurricane protection pursuant to the declaration of  
 725 condominium. However, if the maintenance, repair, and  
 726 replacement of the hurricane shutters, impact glass, code-  
 727 compliant windows or doors, or other types of code-compliant  
 728 hurricane protection are ~~is~~ the responsibility of the unit

729 owners pursuant to the declaration of condominium, the cost of  
 730 the installation of the hurricane shutters, impact glass, code-  
 731 compliant windows or doors, or other types of code-compliant  
 732 hurricane protection ~~is shall~~ not be a common expense ~~and,~~ but  
 733 shall be charged individually to the unit owners based on the  
 734 cost of installation of the hurricane shutters, impact glass,  
 735 code-compliant windows or doors, or other types of code-  
 736 compliant hurricane protection appurtenant to the unit.  
 737 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless  
 738 of whether or not the declaration requires the association or  
 739 unit owners to maintain, repair, or replace hurricane shutters,  
 740 impact glass, code-compliant windows or doors, or other types of  
 741 code-compliant hurricane protection, a unit owner who has  
 742 previously installed hurricane shutters in accordance with s.  
 743 718.113(5) that comply with the current applicable building code  
 744 shall receive a credit when the shutters are installed; a unit  
 745 owner who has previously installed impact glass or code-  
 746 compliant windows or doors that comply with the current  
 747 applicable building code shall receive a credit when the impact  
 748 glass or code-compliant windows or doors are installed; and a  
 749 unit owner who has installed, other types of code-compliant  
 750 hurricane protection that comply with the current applicable  
 751 building code shall receive a credit when the same type of other  
 752 code-compliant hurricane protection is installed, and the ~~or~~  
 753 ~~laminated glass architecturally designed to function as~~  
 754 ~~hurricane protection, which hurricane shutters or other~~  
 755 ~~hurricane protection or laminated glass comply with the current~~  
 756 ~~applicable building code, shall receive a credit shall be equal~~

757 to the pro rata portion of the assessed installation cost  
 758 assigned to each unit. However, such unit owner remains ~~shall~~  
 759 ~~remain~~ responsible for the pro rata share of expenses for  
 760 hurricane shutters, impact glass, code-compliant windows or  
 761 doors, or other types of code-compliant hurricane protection  
 762 installed on common elements and association property by the  
 763 board pursuant to s. 718.113(5), ~~and~~ remains ~~shall remain~~  
 764 responsible for a pro rata share of the expense of the  
 765 replacement, operation, repair, and maintenance of such  
 766 shutters, impact glass, code-compliant windows or doors, or  
 767 other types of code-complaint hurricane protection.

768 Section 6. Paragraph (a) of subsection (3) of section  
 769 718.303, Florida Statutes, is amended to read:

770 718.303 Obligations of owners and occupants; remedies.—

771 (3) The association may levy reasonable fines for the  
 772 failure of the owner of the unit or its occupant, licensee, or  
 773 invitee to comply with any provision of the declaration, the  
 774 association bylaws, or reasonable rules of the association. A  
 775 fine may not become a lien against a unit. A fine may be levied  
 776 on the basis of each day of a continuing violation, with a  
 777 single notice and opportunity for hearing. However, the fine may  
 778 not exceed \$100 per violation, or \$1,000 in the aggregate.

779 (a) An association may suspend, for a reasonable period of  
 780 time, the right of a unit owner, or a unit owner's tenant,  
 781 guest, or invitee, to use the common elements, common  
 782 facilities, or any other association property for failure to  
 783 comply with any provision of the declaration, the association  
 784 bylaws, or reasonable rules of the association. This paragraph

785 does not apply to limited common elements intended to be used  
 786 only by that unit, common elements needed to access the unit,  
 787 utility services provided to the unit, parking spaces, or  
 788 elevators.

789 Section 7. Subsection (1) of section 718.403, Florida  
 790 Statutes, is amended to read:

791 718.403 Phase condominiums.—

792 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a  
 793 developer may develop a condominium in phases, if the original  
 794 declaration of condominium submitting the initial phase to  
 795 condominium ownership or an amendment to the declaration which  
 796 has been approved by all of the unit owners and unit mortgagees  
 797 provides for and describes in detail all anticipated phases; the  
 798 impact, if any, which the completion of subsequent phases would  
 799 have upon the initial phase; and the time period ~~(which may not~~  
 800 ~~exceed 7 years from the date of recording the declaration of~~  
 801 ~~condominium)~~ within which all phases must be added to the  
 802 condominium and comply with the requirements of this section and  
 803 at the end of which the right to add additional phases expires.

804 (a) All phases must be added to the condominium within 7  
 805 years after the date of recording the original declaration of  
 806 condominium submitting the initial phase to condominium  
 807 ownership unless an amendment extending the 7-year period is  
 808 approved by the unit owners.

809 (b) An amendment to extend the 7-year period requires the  
 810 approval of the owners necessary to amend the declaration of  
 811 condominium consistent with s. 718.110(1)(a). An extension of  
 812 the 7-year period may be submitted for approval only during the

813 | last 3 years of the 7-year period.

814 |       (c) An amendment must describe the period within which all  
 815 | phases must be added to the condominium and such period may not  
 816 | exceed 10 years after the date of recording the original  
 817 | declaration of condominium submitting the initial phase to  
 818 | condominium ownership.

819 |       (d) Notwithstanding s. 718.110, an amendment extending the  
 820 | 7-year period is not an amendment subject to s. 718.110(4).

821 |       Section 8. Section 718.406, Florida Statutes, is created  
 822 | to read:

823 |       718.406 Condominiums created within condominium parcels.-

824 |       (1) Unless otherwise expressed in the declaration of  
 825 | condominium, if a condominium is created within a condominium  
 826 | parcel, the term:

827 |       (a) "Primary condominium" means any condominium that is  
 828 | not a secondary condominium and contains one or more subdivided  
 829 | parcels.

830 |       (b) "Primary condominium association" means any entity  
 831 | that operates a primary condominium.

832 |       (c) "Primary condominium declaration" means the instrument  
 833 | or instruments by which a primary condominium is created, as  
 834 | they are from time to time amended.

835 |       (d) "Secondary condominium" means one or more condominium  
 836 | parcels that have been submitted to condominium ownership  
 837 | pursuant to a secondary condominium declaration.

838 |       (e) "Secondary condominium association" means any entity  
 839 | responsible for the operation of a secondary condominium.

840 |       (f) "Secondary condominium declaration" means the

841 instrument or instruments by which a secondary condominium is  
 842 created, as they are from time to time amended.

843 (g) "Secondary unit" means a unit that is part of a  
 844 secondary condominium.

845 (h) "Subdivided parcel" means a condominium parcel in a  
 846 primary condominium that has been submitted to condominium  
 847 ownership pursuant to a secondary condominium declaration.

848 (2) Unless otherwise provided in the primary condominium  
 849 declaration, if a condominium parcel is a subdivided parcel, the  
 850 secondary condominium association responsible for operating the  
 851 secondary condominium upon the subdivided parcel shall act on  
 852 behalf of all of the unit owners of secondary units in the  
 853 secondary condominium and shall exercise all rights of the  
 854 secondary unit owners in the primary condominium association,  
 855 other than the right of possession of the secondary unit. The  
 856 secondary condominium association shall designate a  
 857 representative who shall cast the vote of the subdivided parcel  
 858 in the primary condominium association and, if no person is  
 859 designated by the secondary condominium association to cast such  
 860 vote, the vote shall be cast by the president of the secondary  
 861 condominium association or the designee of the president.

862 (3) Unless otherwise provided in the primary condominium  
 863 declaration as originally recorded, no secondary condominium may  
 864 be created upon any condominium parcel in the primary  
 865 condominium, and no amendment to the primary condominium  
 866 declaration may permit secondary condominiums to be created upon  
 867 parcels in the primary condominium, unless the record owners of  
 868 a majority of the condominium parcels join in the execution of

869 the amendment.

870 (4) If the primary condominium declaration permits the  
 871 creation of a secondary condominium and a condominium parcel in  
 872 the primary condominium is being submitted for condominium  
 873 ownership to create a secondary condominium upon the primary  
 874 condominium parcel, the approval of the board of administration  
 875 of the primary condominium association is required in order to  
 876 create the secondary condominium on the primary condominium  
 877 parcel. Unless otherwise provided in the primary condominium  
 878 declaration, the owners of condominium parcels in the primary  
 879 condominium that will not be part of the proposed secondary  
 880 condominium and the holders of liens upon such primary  
 881 condominium parcels shall not have approval rights regarding the  
 882 creation of the secondary condominium or the contents of the  
 883 secondary condominium declaration being submitted. Only the  
 884 board of administration of the primary condominium association,  
 885 the owner of the subdivided parcel, and the holders of liens  
 886 upon the subdivided parcel shall have approval rights regarding  
 887 the creation of the secondary condominium and the contents of  
 888 the secondary condominium declaration. In order for the  
 889 recording of the secondary condominium declaration to be  
 890 effective to create the secondary condominium, the board of  
 891 administration of the primary condominium association, the owner  
 892 of the subdivided parcel, and all holders of liens on the  
 893 subdivided parcel must execute the secondary condominium  
 894 declaration for the purpose of evidencing their approval.

895 (5) An owner of a secondary unit is subject to both the  
 896 primary condominium declaration and the secondary condominium

897 declaration.

898 (6) The primary condominium association may provide  
 899 insurance required by s. 718.111(11) for common elements and  
 900 other improvements within the secondary condominium if the  
 901 primary condominium declaration permits the primary condominium  
 902 association to provide such insurance for the benefit of the  
 903 condominium property included in the subdivided parcel, in lieu  
 904 of such insurance being provided by the secondary condominium  
 905 association.

906 (7) Unless otherwise provided in the primary condominium  
 907 declaration, the board of administration of the primary  
 908 condominium association may adopt hurricane shutter or hurricane  
 909 protection specifications for each building within which  
 910 subdivided parcels are located and govern any subdivided parcels  
 911 in the primary condominium.

912 (8) Any unit owner of, or holder of a first mortgage on, a  
 913 secondary unit may register such unit owner's or mortgagee's  
 914 interest in the secondary unit with the primary condominium  
 915 association by delivering written notice to the primary  
 916 condominium association. Once registered, the primary  
 917 condominium association must provide written notice to such  
 918 secondary unit owner and his, her, or its first mortgagee at  
 919 least 30 days before instituting any foreclosure action against  
 920 the subdivided parcel in which the secondary unit owner and his,  
 921 her, or its first mortgagee hold an interest for failure of the  
 922 subdivided parcel owner to pay any assessments or other amounts  
 923 due to the primary condominium association. A foreclosure action  
 924 against a subdivided parcel is not effective without an

925 affidavit indicating that written notice of the foreclosure was  
 926 timely sent to the names and addresses of secondary unit owners  
 927 and first mortgagees registered with the primary condominium  
 928 association pursuant to this subsection. The registered  
 929 secondary unit owner or mortgagee has a right to pay the  
 930 proportionate amount of the delinquent assessment attributable  
 931 to the secondary unit in which the registered unit owner or  
 932 mortgagee holds an interest. Upon such payment, the primary  
 933 condominium association is obligated to promptly modify or  
 934 partially release the record of lien on the primary condominium  
 935 association so that the lien no longer encumbers such secondary  
 936 unit. Alternatively, a registered secondary unit owner or  
 937 mortgagee may pay the amount of all delinquent assessments  
 938 attributed to the subdivided parcel and seek reimbursement for  
 939 all such amounts paid and all costs incurred from the secondary  
 940 condominium association, including, without limitation, the  
 941 costs of collection other than the share allocable to the  
 942 secondary unit on behalf of which such payment was made.

943 (9) In the event of a conflict between the primary  
 944 condominium declaration and the secondary condominium  
 945 declaration, the primary condominium declaration controls.

946 (10) All common expenses due to the primary condominium  
 947 association with respect to a subdivided parcel are a common  
 948 expense of the secondary condominium association and shall be  
 949 collected by the secondary condominium association from its  
 950 members and paid to the primary condominium association.

951 Section 9. Subsection (2) of section 718.5011, Florida  
 952 Statutes, is amended to read:

953 718.5011 Ombudsman; appointment; administration.—  
 954 (2) The Governor shall appoint the ombudsman. The  
 955 ombudsman must be an attorney admitted to practice before the  
 956 Florida Supreme Court and shall serve at the pleasure of the  
 957 Governor. A vacancy in the office shall be filled in the same  
 958 manner as the original appointment. An officer or full-time  
 959 employee of the ombudsman's office may not actively engage in  
 960 any other business or profession that directly or indirectly  
 961 relates to or conflicts with his or her work in the ombudsman's  
 962 office; serve as the representative of any political party,  
 963 executive committee, or other governing body of a political  
 964 party; serve as an executive, officer, or employee of a  
 965 political party; receive remuneration for activities on behalf  
 966 of any candidate for public office; or engage in soliciting  
 967 votes or other activities on behalf of a candidate for public  
 968 office. The ombudsman or any employee of his or her office may  
 969 not become a candidate for election to public office unless he  
 970 or she first resigns from his or her office or employment.

971 Section 10. Paragraphs (b) and (c) of subsection (2) of  
 972 section 719.104, Florida Statutes, are amended to read:

973 719.104 Cooperatives; access to units; records; financial  
 974 reports; assessments; purchase of leases.—

975 (2) OFFICIAL RECORDS.—

976 (b) The official records of the association shall be  
 977 maintained within the state. The records of the association  
 978 shall be made available to a unit owner within 5 working days  
 979 after receipt of written request by the board or its designee.  
 980 This paragraph may be complied with by having a copy of the

981 official records available for inspection or copying on the  
 982 cooperative property. Any association member or the authorized  
 983 representative of such member may utilize smartphones, tablets,  
 984 portable scanners, or other technology capable of scanning or  
 985 taking pictures in lieu of the association providing copies to  
 986 the association member or the authorized representative of such  
 987 member. In no event should the association be able to charge a  
 988 member or the member's authorized representative for the use of  
 989 his or her portable devices.

990 (c) The official records of the association shall be open  
 991 to inspection by any association member or the authorized  
 992 representative of such member at all reasonable times. Failure  
 993 to permit inspection of the association records as provided in  
 994 this subsection ~~herein~~ entitles any person prevailing in an  
 995 enforcement action to recover reasonable attorney ~~attorney's~~  
 996 fees from the person in control of the records who, directly or  
 997 indirectly, knowingly denies access to the records for  
 998 inspection. The right to inspect the records includes the right  
 999 to make or obtain copies, at the reasonable expense, if any, of  
 1000 the association member. The association may adopt reasonable  
 1001 rules regarding the frequency, time, location, notice, and  
 1002 manner of record inspections and copying. The failure of an  
 1003 association to provide the records within 10 working days after  
 1004 receipt of a written request creates a rebuttable presumption  
 1005 that the association willfully failed to comply with this  
 1006 paragraph. A unit owner who is denied access to official records  
 1007 is entitled to the actual damages or minimum damages for the  
 1008 association's willful failure to comply with this paragraph. The

1009 minimum damages shall be \$50 per calendar day up to 10 days, the  
 1010 calculation to begin on the 11th day after receipt of the  
 1011 written request. The association shall maintain an adequate  
 1012 number of copies of the declaration, articles of incorporation,  
 1013 bylaws, and rules, and all amendments to each of the foregoing,  
 1014 as well as the question and answer sheet provided for in s.  
 1015 719.504, on the cooperative property to ensure their  
 1016 availability to unit owners and prospective purchasers, and may  
 1017 charge its actual costs for preparing and furnishing these  
 1018 documents to those requesting the same. Notwithstanding ~~the~~  
 1019 ~~provisions of~~ this paragraph, the following records shall not be  
 1020 accessible to unit owners:

1021 1. Any record protected by the lawyer-client privilege as  
 1022 provided in s. 90.502; protected by the work-product privilege,  
 1023 including any record ~~A record that was~~ prepared by an  
 1024 association attorney or prepared at the attorney's express  
 1025 direction; reflecting ~~that reflects~~ a mental impression,  
 1026 conclusion, litigation strategy, or legal theory of the attorney  
 1027 or the association; or ~~that was~~ prepared exclusively for civil  
 1028 or criminal litigation or for adversarial administrative  
 1029 proceedings or in anticipation of imminent civil or criminal  
 1030 litigation or imminent adversarial administrative proceedings,  
 1031 until the conclusion of the litigation or adversarial  
 1032 administrative proceedings.

1033 2. Information obtained by an association in connection  
 1034 with the approval of the lease, sale, or other transfer of a  
 1035 unit.

1036 3. Medical records of unit owners.

1037 4. Personnel records of association employees, including,  
 1038 but not limited to, disciplinary, payroll, health, and insurance  
 1039 records. For purposes of this subparagraph, the term "personnel  
 1040 records" does not include written employment agreements with an  
 1041 association employee or budgetary or financial records that  
 1042 indicate the compensation paid to an association employee.

1043 5. Social security numbers, driver license numbers, credit  
 1044 card numbers, e-mail addresses, telephone numbers, emergency  
 1045 contact information, any addresses of a unit owner other than  
 1046 addresses provided to fulfill the association's notice  
 1047 requirements, and other personal identifying information of any  
 1048 person, excluding the person's name, unit designation, mailing  
 1049 address, and property address.

1050 6. Any electronic security measures that are used by the  
 1051 association to safeguard data, including passwords.

1052 7. The software and operating system used by the  
 1053 association which allows manipulation of data, even if the owner  
 1054 owns a copy of the same software used by the association. The  
 1055 data is part of the official records of the association.

1056 Section 11. Subsection (7) is added to section 719.1055,  
 1057 Florida Statutes, to read:

1058 719.1055 Amendment of cooperative documents; alteration  
 1059 and acquisition of property.—

1060 (7) The Legislature finds that the procurement of  
 1061 mortgagee consent to amendments that do not affect the rights or  
 1062 interests of mortgagees is an unreasonable and substantial  
 1063 logistical and financial burden on the unit owners and that  
 1064 there is a compelling state interest in enabling the members of

1065 an association to approve amendments to the association's  
 1066 cooperative documents through legal means. Accordingly, and  
 1067 notwithstanding any provision of this subsection to the  
 1068 contrary:

1069 (a) As to any mortgage recorded on or after July 1, 2013,  
 1070 any provision in the association's cooperative documents that  
 1071 requires the consent or joinder of some or all mortgagees of  
 1072 units or any other portion of the association's common areas to  
 1073 amend the association's cooperative documents or for any other  
 1074 matter is enforceable only as to amendments to the association's  
 1075 cooperative documents that adversely affect the priority of the  
 1076 mortgagee's lien or the mortgagee's rights to foreclose its lien  
 1077 or that otherwise materially affect the rights and interests of  
 1078 the mortgagees.

1079 (b) As to mortgages recorded before July 1, 2013, any  
 1080 existing provisions in the association's cooperative documents  
 1081 requiring mortgagee consent are enforceable.

1082 (c) In securing consent or joinder, the association is  
 1083 entitled to rely upon the public records to identify the holders  
 1084 of outstanding mortgages. The association may use the address  
 1085 provided in the original recorded mortgage document, unless  
 1086 there is a different address for the holder of the mortgage in a  
 1087 recorded assignment or modification of the mortgage, which  
 1088 recorded assignment or modification must reference the official  
 1089 records book and page on which the original mortgage was  
 1090 recorded. Once the association has identified the recorded  
 1091 mortgages of record, the association shall, in writing, request  
 1092 of each unit owner whose unit is encumbered by a mortgage of

1093 record any information that the owner has in his or her  
 1094 possession regarding the name and address of the person to whom  
 1095 mortgage payments are currently being made. Notice shall be sent  
 1096 to such person if the address provided in the original recorded  
 1097 mortgage document is different from the name and address of the  
 1098 mortgagee or assignee of the mortgage as shown by the public  
 1099 record. The association is deemed to have complied with this  
 1100 requirement by making the written request of the unit owners  
 1101 required under this paragraph. Any notices required to be sent  
 1102 to the mortgagees under this paragraph shall be sent to all  
 1103 available addresses provided to the association.

1104 (d) Any notice to the mortgagees required under paragraph  
 1105 (c) may be sent by a method that establishes proof of delivery,  
 1106 and any mortgagee who fails to respond within 60 days after the  
 1107 date of mailing is deemed to have consented to the amendment.

1108 (e) For those amendments requiring mortgagee consent on or  
 1109 after July 1, 2013, in the event mortgagee consent is provided  
 1110 other than by properly recorded joinder, such consent shall be  
 1111 evidenced by affidavit of the association recorded in the public  
 1112 records of the county in which the declaration is recorded.

1113 (f) Any amendment adopted without the required consent of  
 1114 a mortgagee is voidable only by a mortgagee who was entitled to  
 1115 notice and an opportunity to consent. An action to void an  
 1116 amendment is subject to the statute of limitations beginning 5  
 1117 years after the date of discovery as to the amendments described  
 1118 in paragraph (a) and 5 years after the date of recordation of  
 1119 the certificate of amendment for all other amendments. This  
 1120 paragraph applies to all mortgages, regardless of the date of

1121 | recordation of the mortgage.

1122 |       Section 12. Paragraphs (c), (d), and (f) of subsection (1)  
1123 | of section 719.106, Florida Statutes, are amended to read:

1124 |       719.106 Bylaws; cooperative ownership.—

1125 |       (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
1126 | documents shall provide for the following, and if they do not,  
1127 | they shall be deemed to include the following:

1128 |       (c) Board of administration meetings.—Meetings of the  
1129 | board of administration at which a quorum of the members is  
1130 | present shall be open to all unit owners. Any unit owner may  
1131 | tape record or videotape meetings of the board of  
1132 | administration. The right to attend such meetings includes the  
1133 | right to speak at such meetings with reference to all designated  
1134 | agenda items. The division shall adopt reasonable rules  
1135 | governing the tape recording and videotaping of the meeting. The  
1136 | association may adopt reasonable written rules governing the  
1137 | frequency, duration, and manner of unit owner statements.  
1138 | Adequate notice of all meetings shall be posted in a conspicuous  
1139 | place upon the cooperative property at least 48 continuous hours  
1140 | preceding the meeting, except in an emergency. Any item not  
1141 | included on the notice may be taken up on an emergency basis by  
1142 | at least a majority plus one of the members of the board. Such  
1143 | emergency action shall be noticed and ratified at the next  
1144 | regular meeting of the board. However, written notice of any  
1145 | meeting at which nonemergency special assessments, or at which  
1146 | amendment to rules regarding unit use, will be considered shall  
1147 | be mailed, delivered, or electronically transmitted to the unit  
1148 | owners and posted conspicuously on the cooperative property not

1149 | less than 14 days before ~~prior~~ to the meeting. Evidence of  
 1150 | compliance with this 14-day notice shall be made by an affidavit  
 1151 | executed by the person providing the notice and filed among the  
 1152 | official records of the association. Upon notice to the unit  
 1153 | owners, the board shall by duly adopted rule designate a  
 1154 | specific location on the cooperative property upon which all  
 1155 | notices of board meetings shall be posted. In lieu of or in  
 1156 | addition to the physical posting of notice of any meeting of the  
 1157 | board of administration on the cooperative property, the  
 1158 | association may, by reasonable rule, adopt a procedure for  
 1159 | conspicuously posting and repeatedly broadcasting the notice and  
 1160 | the agenda on a closed-circuit cable television system serving  
 1161 | the cooperative association. However, if broadcast notice is  
 1162 | used in lieu of a notice posted physically on the cooperative  
 1163 | property, the notice and agenda must be broadcast at least four  
 1164 | times every broadcast hour of each day that a posted notice is  
 1165 | otherwise required under this section. When broadcast notice is  
 1166 | provided, the notice and agenda must be broadcast in a manner  
 1167 | and for a sufficient continuous length of time so as to allow an  
 1168 | average reader to observe the notice and read and comprehend the  
 1169 | entire content of the notice and the agenda. Notice of any  
 1170 | meeting in which regular assessments against unit owners are to  
 1171 | be considered for any reason shall specifically contain a  
 1172 | statement that assessments will be considered and the nature of  
 1173 | any such assessments. Meetings of a committee to take final  
 1174 | action on behalf of the board or to make recommendations to the  
 1175 | board regarding the association budget are subject to the  
 1176 | provisions of this paragraph. Meetings of a committee that does

1177 | not take final action on behalf of the board or make  
 1178 | recommendations to the board regarding the association budget  
 1179 | are subject to the provisions of this section, unless those  
 1180 | meetings are exempted from this section by the bylaws of the  
 1181 | association. Notwithstanding any other law to the contrary, the  
 1182 | requirement that board meetings and committee meetings be open  
 1183 | to the unit owners does not apply ~~is inapplicable~~ to board or  
 1184 | committee meetings held for the purpose of discussing personnel  
 1185 | matters or meetings between the board or a committee and the  
 1186 | association's attorney, with respect to proposed or pending  
 1187 | litigation, if ~~when~~ the meeting is held for the purpose of  
 1188 | seeking or rendering legal advice.

1189 |         (d) Shareholder meetings.—There shall be an annual meeting  
 1190 | of the shareholders. All members of the board of administration  
 1191 | shall be elected at the annual meeting unless the bylaws provide  
 1192 | for staggered election terms or for their election at another  
 1193 | meeting. Any unit owner desiring to be a candidate for board  
 1194 | membership must comply with subparagraph 1. The bylaws must  
 1195 | provide the method for calling meetings, including annual  
 1196 | meetings. Written notice, which must incorporate an  
 1197 | identification of agenda items, shall be given to each unit  
 1198 | owner at least 14 days before the annual meeting and posted in a  
 1199 | conspicuous place on the cooperative property at least 14  
 1200 | continuous days preceding the annual meeting. Upon notice to the  
 1201 | unit owners, the board must by duly adopted rule designate a  
 1202 | specific location on the cooperative property upon which all  
 1203 | notice of unit owner meetings are posted. In lieu of or in  
 1204 | addition to the physical posting of the meeting notice, the

1205 association may, by reasonable rule, adopt a procedure for  
 1206 conspicuously posting and repeatedly broadcasting the notice and  
 1207 the agenda on a closed-circuit cable television system serving  
 1208 the cooperative association. However, if broadcast notice is  
 1209 used in lieu of a posted notice, the notice and agenda must be  
 1210 broadcast at least four times every broadcast hour of each day  
 1211 that a posted notice is otherwise required under this section.  
 1212 If broadcast notice is provided, the notice and agenda must be  
 1213 broadcast in a manner and for a sufficient continuous length of  
 1214 time to allow an average reader to observe the notice and read  
 1215 and comprehend the entire content of the notice and the agenda.  
 1216 Unless a unit owner waives in writing the right to receive  
 1217 notice of the annual meeting, the notice of the annual meeting  
 1218 must be sent by mail, hand delivered, or electronically  
 1219 transmitted to each unit owner. An officer of the association  
 1220 must provide an affidavit or United States Postal Service  
 1221 certificate of mailing, to be included in the official records  
 1222 of the association, affirming that notices of the association  
 1223 meeting were mailed, hand delivered, or electronically  
 1224 transmitted, in accordance with this provision, to each unit  
 1225 owner at the address last furnished to the association.

1226       1. The board of administration shall be elected by written  
 1227 ballot or voting machine. A proxy may not be used in electing  
 1228 the board of administration in general elections or elections to  
 1229 fill vacancies caused by recall, resignation, or otherwise  
 1230 unless otherwise provided in this chapter. At least 60 days  
 1231 before a scheduled election, the association shall mail,  
 1232 deliver, or transmit, whether by separate association mailing,

1233 delivery, or electronic transmission or included in another  
 1234 association mailing, delivery, or electronic transmission,  
 1235 including regularly published newsletters, to each unit owner  
 1236 entitled to vote, a first notice of the date of the election.  
 1237 Any unit owner or other eligible person desiring to be a  
 1238 candidate for the board of administration must give written  
 1239 notice to the association at least 40 days before a scheduled  
 1240 election. Together with the written notice and agenda as set  
 1241 forth in this section, the association shall mail, deliver, or  
 1242 electronically transmit a second notice of election to all unit  
 1243 owners entitled to vote, together with a ballot that ~~which~~ lists  
 1244 all candidates. Upon request of a candidate, the association  
 1245 shall include an information sheet, no larger than 8 1/2 inches  
 1246 by 11 inches, which must be furnished by the candidate at least  
 1247 35 days before the election, to be included with the mailing,  
 1248 delivery, or electronic transmission of the ballot, with the  
 1249 costs of mailing, delivery, or transmission and copying to be  
 1250 borne by the association. The association is not liable for the  
 1251 contents of the information sheets provided by the candidates.  
 1252 In order to reduce costs, the association may print or duplicate  
 1253 the information sheets on both sides of the paper. The division  
 1254 shall by rule establish voting procedures consistent with this  
 1255 subparagraph, including rules establishing procedures for giving  
 1256 notice by electronic transmission and rules providing for the  
 1257 secrecy of ballots. Elections shall be decided by a plurality of  
 1258 those ballots cast. There is no quorum requirement. However, at  
 1259 least 20 percent of the eligible voters must cast a ballot in  
 1260 order to have a valid election. A unit owner may not permit any

1261 other person to vote his or her ballot, and any such ballots  
 1262 improperly cast are invalid. A unit owner who needs assistance  
 1263 in casting the ballot for the reasons stated in s. 101.051 may  
 1264 obtain assistance in casting the ballot. Any unit owner  
 1265 violating this provision may be fined by the association in  
 1266 accordance with s. 719.303. The regular election must occur on  
 1267 the date of the annual meeting. This subparagraph does not apply  
 1268 to timeshare cooperatives. Notwithstanding this subparagraph, an  
 1269 election and balloting are not required unless more candidates  
 1270 file a notice of intent to run or are nominated than vacancies  
 1271 exist on the board. Any challenge to the election process must  
 1272 be commenced within 60 days after the election results are  
 1273 announced. Within 90 days after being elected or appointed to  
 1274 the board, each new director shall certify in writing to the  
 1275 secretary of the association that he or she has read the  
 1276 association's bylaws, articles of incorporation, proprietary  
 1277 lease, and current written policies; that he or she will work to  
 1278 uphold such documents and policies to the best of his or her  
 1279 ability; and that he or she will faithfully discharge his or her  
 1280 fiduciary responsibility to the association's members. Within 90  
 1281 days after being elected or appointed to the board, in lieu of  
 1282 this written certification, the newly elected or appointed  
 1283 director may submit a certificate of having satisfactorily  
 1284 completed the educational curriculum administered by an  
 1285 education provider as approved by the division pursuant to the  
 1286 requirements established in chapter 718 within 1 year before or  
 1287 90 days after the date of election or appointment. The  
 1288 educational certificate is valid and does not have to be

1289 resubmitted as long as the director serves on the board without  
 1290 interruption. A director who fails to timely file the written  
 1291 certification or educational certificate is suspended from  
 1292 service on the board until he or she complies with this sub-  
 1293 subparagraph. The board may temporarily fill the vacancy during  
 1294 the period of suspension. The secretary shall cause the  
 1295 association to retain a director's written certification or  
 1296 educational certificate for inspection by the members for 5  
 1297 years after a director's election or the duration of the  
 1298 director's uninterrupted tenure, whichever is longer. Failure to  
 1299 have such written certification or educational certificate on  
 1300 file does not affect the validity of any board action.

1301         2. Any approval by unit owners called for by this chapter,  
 1302 or the applicable cooperative documents, must be made at a duly  
 1303 noticed meeting of unit owners and is subject to this chapter or  
 1304 the applicable cooperative documents relating to unit owner  
 1305 decisionmaking, except that unit owners may take action by  
 1306 written agreement, without meetings, on matters for which action  
 1307 by written agreement without meetings is expressly allowed by  
 1308 the applicable cooperative documents or law which provides for  
 1309 the unit owner action.

1310         3. Unit owners may waive notice of specific meetings if  
 1311 allowed by the applicable cooperative documents or law. If  
 1312 authorized by the bylaws, notice of meetings of the board of  
 1313 administration, shareholder meetings, except shareholder  
 1314 meetings called to recall board members under paragraph (f), and  
 1315 committee meetings may be given by electronic transmission to  
 1316 unit owners who consent to receive notice by electronic

1317 transmission.

1318 4. Unit owners have the right to participate in meetings  
 1319 of unit owners with reference to all designated agenda items.  
 1320 However, the association may adopt reasonable rules governing  
 1321 the frequency, duration, and manner of unit owner participation.

1322 5. Any unit owner may tape record or videotape meetings of  
 1323 the unit owners subject to reasonable rules adopted by the  
 1324 division.

1325 6. Unless otherwise provided in the bylaws, a vacancy  
 1326 occurring on the board before the expiration of a term may be  
 1327 filled by the affirmative vote of the majority of the remaining  
 1328 directors, even if the remaining directors constitute less than  
 1329 a quorum, or by the sole remaining director. In the alternative,  
 1330 a board may hold an election to fill the vacancy, in which case  
 1331 the election procedures must conform to the requirements of  
 1332 subparagraph 1. unless the association has opted out of the  
 1333 statutory election process, in which case the bylaws of the  
 1334 association control. Unless otherwise provided in the bylaws, a  
 1335 board member appointed or elected under this subparagraph shall  
 1336 fill the vacancy for the unexpired term of the seat being  
 1337 filled. Filling vacancies created by recall is governed by  
 1338 paragraph (f) and rules adopted by the division.

1339  
 1340 Notwithstanding subparagraphs (b)2. and (d)1., an association  
 1341 may, by the affirmative vote of a majority of the total voting  
 1342 interests, provide for a different voting and election procedure  
 1343 in its bylaws, which vote may be by a proxy specifically  
 1344 delineating the different voting and election procedures. The

1345 different voting and election procedures may provide for  
 1346 elections to be conducted by limited or general proxy.

1347 (f) Recall of board members.—Subject to ~~the provisions of~~  
 1348 s. 719.301, any member of the board of administration may be  
 1349 recalled and removed from office with or without cause by the  
 1350 vote or agreement in writing by a majority of all the voting  
 1351 interests. A special meeting of the voting interests to recall  
 1352 any member of the board of administration may be called by 10  
 1353 percent of the unit owners giving notice of the meeting as  
 1354 required for a meeting of unit owners, and the notice shall  
 1355 state the purpose of the meeting. Electronic transmission may  
 1356 not be used as a method of giving notice of a meeting called in  
 1357 whole or in part for this purpose.

1358 1. If the recall is approved by a majority of all voting  
 1359 interests by a vote at a meeting, the recall shall be effective  
 1360 as provided in this paragraph herein. The board shall duly  
 1361 notice and hold a board meeting within 5 full business days  
 1362 after ~~of~~ the adjournment of the unit owner meeting to recall one  
 1363 or more board members. At the meeting, the board shall either  
 1364 certify the recall, in which case such member or members shall  
 1365 be recalled effective immediately and shall turn over to the  
 1366 board within 5 full business days any and all records and  
 1367 property of the association in their possession, or shall  
 1368 proceed as set forth in subparagraph 3.

1369 2. If the proposed recall is by an agreement in writing by  
 1370 a majority of all voting interests, the agreement in writing or  
 1371 a copy thereof shall be served on the association by certified  
 1372 mail or by personal service in the manner authorized by chapter

1373 48 and the Florida Rules of Civil Procedure. The board of  
 1374 administration shall duly notice and hold a meeting of the board  
 1375 within 5 full business days after receipt of the agreement in  
 1376 writing. At the meeting, the board shall either certify the  
 1377 written agreement to recall members of the board, in which case  
 1378 such members shall be recalled effective immediately and shall  
 1379 turn over to the board, within 5 full business days, any and all  
 1380 records and property of the association in their possession, or  
 1381 proceed as described in subparagraph 3.

1382 3. If the board determines not to certify the written  
 1383 agreement to recall members of the board, or does not certify  
 1384 the recall by a vote at a meeting, the board shall, within 5  
 1385 full business days after the board meeting, file with the  
 1386 division a petition for binding arbitration pursuant to the  
 1387 procedures of s. 719.1255. For purposes of this paragraph, the  
 1388 unit owners who voted at the meeting or who executed the  
 1389 agreement in writing shall constitute one party under the  
 1390 petition for arbitration. If the arbitrator certifies the recall  
 1391 as to any member of the board, the recall shall be effective  
 1392 upon mailing of the final order of arbitration to the  
 1393 association. If the association fails to comply with the order  
 1394 of the arbitrator, the division may take action pursuant to s.  
 1395 719.501. Any member so recalled shall deliver to the board any  
 1396 and all records and property of the association in the member's  
 1397 possession within 5 full business days after ~~of~~ the effective  
 1398 date of the recall.

1399 4. If the board fails to duly notice and hold a board  
 1400 meeting within 5 full business days after ~~of~~ service of an

1401 agreement in writing or within 5 full business days after ~~of~~ the  
 1402 adjournment of the unit owner recall meeting, the recall shall  
 1403 be deemed effective and the board members so recalled shall  
 1404 immediately turn over to the board any and all records and  
 1405 property of the association.

1406 5. If the board fails to duly notice and hold the required  
 1407 meeting or fails to file the required petition, the unit owner  
 1408 representative may file a petition pursuant to s. 719.1255  
 1409 challenging the board's failure to act. The petition must be  
 1410 filed within 60 days after the expiration of the applicable 5-  
 1411 full-business-day period. The review of a petition under this  
 1412 subparagraph is limited to the sufficiency of service on the  
 1413 board and the facial validity of the written agreement or  
 1414 ballots filed.

1415 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
 1416 recall and less than a majority of the board members are  
 1417 removed, the vacancy may be filled by the affirmative vote of a  
 1418 majority of the remaining directors, notwithstanding any  
 1419 provision to the contrary contained in this chapter. If  
 1420 vacancies occur on the board as a result of a recall and a  
 1421 majority or more of the board members are removed, the vacancies  
 1422 shall be filled in accordance with procedural rules to be  
 1423 adopted by the division, which rules need not be consistent with  
 1424 this chapter. The rules must provide procedures governing the  
 1425 conduct of the recall election as well as the operation of the  
 1426 association during the period after a recall but before ~~prior to~~  
 1427 the recall election.

1428 7. A board member who has been recalled may file a

1429 petition pursuant to s. 719.1255 challenging the validity of the  
 1430 recall. The petition must be filed within 60 days after the  
 1431 recall is deemed certified. The association and the unit owner  
 1432 representative shall be named as the respondents.

1433 8. The division may not accept for filing a recall  
 1434 petition, whether filed pursuant to subparagraph 1.,  
 1435 subparagraph 2., subparagraph 5., or subparagraph 7. And  
 1436 regardless of whether the recall was certified, when there are  
 1437 60 or fewer days until the scheduled reelection of the board  
 1438 member sought to be recalled or when 60 or fewer days have not  
 1439 elapsed since the election of the board member sought to be  
 1440 recalled.

1441 Section 13. Paragraph (a) of subsection (3) of section  
 1442 719.303, Florida Statutes, is amended to read:

1443 719.303 Obligations of owners.—

1444 (3) The association may levy reasonable fines for failure  
 1445 of the unit owner or the unit's occupant, licensee, or invitee  
 1446 to comply with any provision of the cooperative documents or  
 1447 reasonable rules of the association. A fine may not become a  
 1448 lien against a unit. A fine may be levied on the basis of each  
 1449 day of a continuing violation, with a single notice and  
 1450 opportunity for hearing. However, the fine may not exceed \$100  
 1451 per violation, or \$1,000 in the aggregate.

1452 (a) An association may suspend, for a reasonable period of  
 1453 time, the right of a unit owner, or a unit owner's tenant,  
 1454 guest, or invitee, to use the common elements, common  
 1455 facilities, or any other association property for failure to  
 1456 comply with any provision of the cooperative documents or

1457 reasonable rules of the association. This paragraph does not  
 1458 apply to limited common elements intended to be used only by  
 1459 that unit, common elements needed to access the unit, utility  
 1460 services provided to the unit, parking spaces, or elevators.

1461 Section 14. Paragraph (c) of subsection (5), and  
 1462 subsections (7) and (10) of section 720.303, Florida Statutes,  
 1463 are amended to read:

1464 720.303 Association powers and duties; meetings of board;  
 1465 official records; budgets; financial reporting; association  
 1466 funds; recalls.—

1467 (5) INSPECTION AND COPYING OF RECORDS.—The official  
 1468 records shall be maintained within the state and must be open to  
 1469 inspection and available for photocopying by members or their  
 1470 authorized agents at reasonable times and places within 10  
 1471 business days after receipt of a written request for access.  
 1472 This subsection may be complied with by having a copy of the  
 1473 official records available for inspection or copying in the  
 1474 community. If the association has a photocopy machine available  
 1475 where the records are maintained, it must provide parcel owners  
 1476 with copies on request during the inspection if the entire  
 1477 request is limited to no more than 25 pages. Any association  
 1478 member or the authorized representative of such member may  
 1479 utilize smartphones, tablets, portable scanners, or other  
 1480 technology capable of scanning or taking pictures in lieu of the  
 1481 association providing copies to the association member or the  
 1482 authorized representative of such member. In no event should  
 1483 the association be able to charge a member or the member's  
 1484 authorized representative for the use of his or her portable

1485 | devices.

1486 |       (c) The association may adopt reasonable written rules  
 1487 | governing the frequency, time, location, notice, records to be  
 1488 | inspected, and manner of inspections, but may not require a  
 1489 | parcel owner to demonstrate any proper purpose for the  
 1490 | inspection, state any reason for the inspection, or limit a  
 1491 | parcel owner's right to inspect records to less than one 8-hour  
 1492 | business day per month. The association may impose fees to cover  
 1493 | the costs of providing copies of the official records,  
 1494 | including, without limitation, the costs of copying. The  
 1495 | association may charge up to 50 cents per page for copies made  
 1496 | on the association's photocopier. If the association does not  
 1497 | have a photocopy machine available where the records are kept,  
 1498 | or if the records requested to be copied exceed 25 pages in  
 1499 | length, the association may have copies made by an outside  
 1500 | vendor or association management company personnel and may  
 1501 | charge the actual cost of copying, including any reasonable  
 1502 | costs involving personnel fees and charges at an hourly rate for  
 1503 | vendor or employee time to cover administrative costs to the  
 1504 | vendor or association. The association shall maintain an  
 1505 | adequate number of copies of the recorded governing documents,  
 1506 | to ensure their availability to members and prospective members.  
 1507 | Notwithstanding this paragraph, the following records are not  
 1508 | accessible to members or parcel owners:

1509 |       1. Any record protected by the lawyer-client privilege as  
 1510 | described in s. 90.502 and any record protected by the work-  
 1511 | product privilege, including, but not limited to, a record  
 1512 | prepared by an association attorney or prepared at the

1513 attorney's express direction which reflects a mental impression,  
 1514 conclusion, litigation strategy, or legal theory of the attorney  
 1515 or the association and which was prepared exclusively for civil  
 1516 or criminal litigation or for adversarial administrative  
 1517 proceedings or which was prepared in anticipation of such  
 1518 litigation or proceedings until the conclusion of the litigation  
 1519 or proceedings.

1520 2. Information obtained by an association in connection  
 1521 with the approval of the lease, sale, or other transfer of a  
 1522 parcel.

1523 3. Personnel records of association or management company  
 1524 ~~the association's~~ employees, including, but not limited to,  
 1525 disciplinary, payroll, health, and insurance records. For  
 1526 purposes of this subparagraph, the term "personnel records" does  
 1527 not include written employment agreements with an association or  
 1528 management company employee or budgetary or financial records  
 1529 that indicate the compensation paid to an association or  
 1530 management company employee.

1531 4. Medical records of parcel owners or community  
 1532 residents.

1533 5. Social security numbers, driver ~~driver's~~ license  
 1534 numbers, credit card numbers, electronic mailing addresses,  
 1535 telephone numbers, facsimile numbers, emergency contact  
 1536 information, any addresses for a parcel owner other than as  
 1537 provided for association notice requirements, and other personal  
 1538 identifying information of any person, excluding the person's  
 1539 name, parcel designation, mailing address, and property address.  
 1540 However, an owner may consent in writing to the disclosure of

1541 | protected information described in this subparagraph. The  
 1542 | association is not liable for the disclosure of information that  
 1543 | is protected under this subparagraph if the information is  
 1544 | included in an official record of the association and is  
 1545 | voluntarily provided by an owner and not requested by the  
 1546 | association.

1547 |         6. Any electronic security measure that is used by the  
 1548 | association to safeguard data, including passwords.

1549 |         7. The software and operating system used by the  
 1550 | association which allows the manipulation of data, even if the  
 1551 | owner owns a copy of the same software used by the association.  
 1552 | The data is part of the official records of the association.

1553 |         (7) FINANCIAL REPORTING.—Within 90 days after the end of  
 1554 | the fiscal year, or annually on the date provided in the bylaws,  
 1555 | the association shall prepare and complete, or contract with a  
 1556 | third party for the preparation and completion of, a financial  
 1557 | report for the preceding fiscal year. Within 21 days after the  
 1558 | final financial report is completed by the association or  
 1559 | received from the third party, but not later than 120 days after  
 1560 | the end of the fiscal year or other date as provided in the  
 1561 | bylaws, the association shall, within the time limits set forth  
 1562 | in subsection (5), provide each member with a copy of the annual  
 1563 | financial report or a written notice that a copy of the  
 1564 | financial report is available upon request at no charge to the  
 1565 | member. Financial reports shall be prepared as follows:

1566 |             (a) An association that meets the criteria of this  
 1567 | paragraph shall prepare or cause to be prepared a complete set  
 1568 | of financial statements in accordance with generally accepted

1569 accounting principles as adopted by the Board of Accountancy.  
 1570 The financial statements shall be based upon the association's  
 1571 total annual revenues, as follows:

1572 1. An association with total annual revenues of \$200,000  
 1573 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
 1574 compiled financial statements.

1575 2. An association with total annual revenues of at least  
 1576 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall  
 1577 prepare reviewed financial statements.

1578 3. An association with total annual revenues of \$500,000  
 1579 ~~\$400,000~~ or more shall prepare audited financial statements.

1580 (b)1. An association with total annual revenues of less  
 1581 than \$200,000 ~~\$100,000~~ shall prepare a report of cash receipts  
 1582 and expenditures.

1583 2. An association in a community of fewer than 50 parcels,  
 1584 regardless of the association's annual revenues, may prepare a  
 1585 report of cash receipts and expenditures in lieu of financial  
 1586 statements required by paragraph (a) unless the governing  
 1587 documents provide otherwise.

1588 3. A report of cash receipts and disbursement must  
 1589 disclose the amount of receipts by accounts and receipt  
 1590 classifications and the amount of expenses by accounts and  
 1591 expense classifications, including, but not limited to, the  
 1592 following, as applicable: costs for security, professional, and  
 1593 management fees and expenses; taxes; costs for recreation  
 1594 facilities; expenses for refuse collection and utility services;  
 1595 expenses for lawn care; costs for building maintenance and  
 1596 repair; insurance costs; administration and salary expenses; and

1597 reserves if maintained by the association.

1598 (10) RECALL OF DIRECTORS.—

1599 (a)1. Regardless of any provision to the contrary  
 1600 contained in the governing documents, subject to the provisions  
 1601 of s. 720.307 regarding transition of association control, any  
 1602 member of the board of directors may be recalled and removed  
 1603 from office with or without cause by a majority of the total  
 1604 voting interests.

1605 2. When the governing documents, including the  
 1606 declaration, articles of incorporation, or bylaws, provide that  
 1607 only a specific class of members is entitled to elect a board  
 1608 director or directors, only that class of members may vote to  
 1609 recall those board directors so elected.

1610 (b)1. Board directors may be recalled by an agreement in  
 1611 writing or by written ballot without a membership meeting. The  
 1612 agreement in writing or the written ballots, or a copy thereof,  
 1613 shall be served on the association by certified mail or by  
 1614 personal service in the manner authorized by chapter 48 and the  
 1615 Florida Rules of Civil Procedure.

1616 2. The board shall duly notice and hold a meeting of the  
 1617 board within 5 full business days after receipt of the agreement  
 1618 in writing or written ballots. At the meeting, the board shall  
 1619 either certify the written ballots or written agreement to  
 1620 recall a director or directors of the board, in which case such  
 1621 director or directors shall be recalled effective immediately  
 1622 and shall turn over to the board within 5 full business days any  
 1623 and all records and property of the association in their  
 1624 possession, or proceed as described in paragraph (d).

1625           3. When it is determined by the department pursuant to  
 1626 binding arbitration proceedings that an initial recall effort  
 1627 was defective, written recall agreements or written ballots used  
 1628 in the first recall effort and not found to be defective may be  
 1629 reused in one subsequent recall effort. However, in no event is  
 1630 a written agreement or written ballot valid for more than 120  
 1631 days after it has been signed by the member.

1632           4. Any rescission or revocation of a member's written  
 1633 recall ballot or agreement must be in writing and, in order to  
 1634 be effective, must be delivered to the association before the  
 1635 association is served with the written recall agreements or  
 1636 ballots.

1637           5. The agreement in writing or ballot shall list at least  
 1638 as many possible replacement directors as there are directors  
 1639 subject to the recall, when at least a majority of the board is  
 1640 sought to be recalled; the person executing the recall  
 1641 instrument may vote for as many replacement candidates as there  
 1642 are directors subject to the recall.

1643           (c)1. If the declaration, articles of incorporation, or  
 1644 bylaws specifically provide, the members may also recall and  
 1645 remove a board director or directors by a vote taken at a  
 1646 meeting. If so provided in the governing documents, a special  
 1647 meeting of the members to recall a director or directors of the  
 1648 board of administration may be called by 10 percent of the  
 1649 voting interests giving notice of the meeting as required for a  
 1650 meeting of members, and the notice shall state the purpose of  
 1651 the meeting. Electronic transmission may not be used as a method  
 1652 of giving notice of a meeting called in whole or in part for

1653 | this purpose.

1654 |         2. The board shall duly notice and hold a board meeting  
 1655 | within 5 full business days after the adjournment of the member  
 1656 | meeting to recall one or more directors. At the meeting, the  
 1657 | board shall certify the recall, in which case such member or  
 1658 | members shall be recalled effective immediately and shall turn  
 1659 | over to the board within 5 full business days any and all  
 1660 | records and property of the association in their possession, or  
 1661 | shall proceed as set forth in subparagraph (d).

1662 |         (d) If the board determines not to certify the written  
 1663 | agreement or written ballots to recall a director or directors  
 1664 | of the board or does not certify the recall by a vote at a  
 1665 | meeting, the board shall, within 5 full business days after the  
 1666 | meeting, file with the department a petition for binding  
 1667 | arbitration pursuant to the applicable procedures in ss.  
 1668 | 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For  
 1669 | the purposes of this section, the members who voted at the  
 1670 | meeting or who executed the agreement in writing shall  
 1671 | constitute one party under the petition for arbitration. If the  
 1672 | arbitrator certifies the recall as to any director or directors  
 1673 | of the board, the recall will be effective upon mailing of the  
 1674 | final order of arbitration to the association. The director or  
 1675 | directors so recalled shall deliver to the board any and all  
 1676 | records of the association in their possession within 5 full  
 1677 | business days after the effective date of the recall.

1678 |         (e) If a vacancy occurs on the board as a result of a  
 1679 | recall and less than a majority of the board directors are  
 1680 | removed, the vacancy may be filled by the affirmative vote of a

1681 majority of the remaining directors, notwithstanding any  
 1682 provision to the contrary contained in this subsection or in the  
 1683 association documents. If vacancies occur on the board as a  
 1684 result of a recall and a majority or more of the board directors  
 1685 are removed, the vacancies shall be filled by members voting in  
 1686 favor of the recall; if removal is at a meeting, any vacancies  
 1687 shall be filled by the members at the meeting. If the recall  
 1688 occurred by agreement in writing or by written ballot, members  
 1689 may vote for replacement directors in the same instrument in  
 1690 accordance with procedural rules adopted by the division, which  
 1691 rules need not be consistent with this subsection.

1692 (f) If the board fails to duly notice and hold a board  
 1693 meeting within 5 full business days after service of an  
 1694 agreement in writing or within 5 full business days after the  
 1695 adjournment of the member recall meeting, the recall shall be  
 1696 deemed effective and the board directors so recalled shall  
 1697 immediately turn over to the board all records and property of  
 1698 the association.

1699 (g) If the board fails to duly notice and hold the  
 1700 required meeting or fails to file the required petition, the  
 1701 unit owner representative may file a petition pursuant to s.  
 1702 718.1255 challenging the board's failure to act. The petition  
 1703 must be filed within 60 days after the expiration of the  
 1704 applicable 5-full-business-day period. The review of a petition  
 1705 under this paragraph is limited to the sufficiency of service on  
 1706 the board and the facial validity of the written agreement or  
 1707 ballots filed.

1708 (h)~~(g)~~ If a director who is removed fails to relinquish

1709 his or her office or turn over records as required under this  
 1710 section, the circuit court in the county where the association  
 1711 maintains its principal office may, upon the petition of the  
 1712 association, summarily order the director to relinquish his or  
 1713 her office and turn over all association records upon  
 1714 application of the association.

1715 (i)~~(h)~~ The minutes of the board meeting at which the board  
 1716 decides whether to certify the recall are an official  
 1717 association record. The minutes must record the date and time of  
 1718 the meeting, the decision of the board, and the vote count taken  
 1719 on each board member subject to the recall. In addition, when  
 1720 the board decides not to certify the recall, as to each vote  
 1721 rejected, the minutes must identify the parcel number and the  
 1722 specific reason for each such rejection.

1723 (j)~~(i)~~ When the recall of more than one board director is  
 1724 sought, the written agreement, ballot, or vote at a meeting  
 1725 shall provide for a separate vote for each board director sought  
 1726 to be recalled.

1727 (k) A board member who has been recalled may file a  
 1728 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the  
 1729 rules adopted challenging the validity of the recall. The  
 1730 petition must be filed within 60 days after the recall is deemed  
 1731 certified. The association and the unit owner representative  
 1732 shall be named as respondents.

1733 (l) The division may not accept for filing a recall  
 1734 petition, whether filed pursuant to paragraph (b), paragraph  
 1735 (c), paragraph (g), or paragraph (k) and regardless of whether  
 1736 the recall was certified, when there are 60 or fewer days until

1737 | the scheduled reelection of the board member sought to be  
 1738 | recalled or when 60 or fewer days have not elapsed since the  
 1739 | election of the board member sought to be recalled.

1740 | Section 15. Paragraph (a) of subsection (2) of section  
 1741 | 720.305, Florida Statutes, is amended to read:

1742 | 720.305 Obligations of members; remedies at law or in  
 1743 | equity; levy of fines and suspension of use rights.—

1744 | (2) The association may levy reasonable fines of up to  
 1745 | \$100 per violation against any member or any member's tenant,  
 1746 | guest, or invitee for the failure of the owner of the parcel or  
 1747 | its occupant, licensee, or invitee to comply with any provision  
 1748 | of the declaration, the association bylaws, or reasonable rules  
 1749 | of the association. A fine may be levied for each day of a  
 1750 | continuing violation, with a single notice and opportunity for  
 1751 | hearing, except that the fine may not exceed \$1,000 in the  
 1752 | aggregate unless otherwise provided in the governing documents.  
 1753 | A fine of less than \$1,000 may not become a lien against a  
 1754 | parcel. In any action to recover a fine, the prevailing party is  
 1755 | entitled to reasonable attorney ~~attorney's~~ fees and costs from  
 1756 | the nonprevailing party as determined by the court.

1757 | (a) An association may suspend, for a reasonable period of  
 1758 | time, the right of a member, or a member's tenant, guest, or  
 1759 | invitee, to use common areas and facilities for the failure of  
 1760 | the owner of the parcel or its occupant, licensee, or invitee to  
 1761 | comply with any provision of the declaration, the association  
 1762 | bylaws, or reasonable rules of the association. This paragraph  
 1763 | does not apply to that portion of common areas used to provide  
 1764 | access or utility services to the parcel. A suspension may not

1765 impair the right of an owner or tenant of a parcel to have  
 1766 vehicular and pedestrian ingress to and egress from the parcel,  
 1767 including, but not limited to, the right to park.

1768 Section 16. Paragraph (d) is added to subsection (1) of  
 1769 section 720.306, Florida Statutes, and subsection (6) and  
 1770 paragraph (a) of subsection (9) of that section are amended to  
 1771 read:

1772 720.306 Meetings of members; voting and election  
 1773 procedures; amendments.—

1774 (1) QUORUM; AMENDMENTS. —

1775 (d) The Legislature finds that the procurement of  
 1776 mortgagee consent to amendments that do not affect the rights or  
 1777 interests of mortgagees is an unreasonable and substantial  
 1778 logistical and financial burden on the parcel owners and that  
 1779 there is a compelling state interest in enabling the members of  
 1780 an association to approve amendments to the association's  
 1781 governing documents through legal means. Accordingly, and  
 1782 notwithstanding any provision of this paragraph to the contrary:

1783 1. As to any mortgage recorded on or after July 1, 2013,  
 1784 any provision in the association's governing documents that  
 1785 requires the consent or joinder of some or all mortgagees of  
 1786 parcels or any other portion of the association's common areas  
 1787 to amend the association's governing documents or for any other  
 1788 matter is enforceable only as to amendments to the association's  
 1789 governing documents that adversely affect the priority of the  
 1790 mortgagee's lien or the mortgagee's rights to foreclose its lien  
 1791 or that otherwise materially affect the rights and interests of  
 1792 the mortgagees.

1793 2. As to mortgages recorded before July 1, 2013, any  
 1794 existing provisions in the association's governing documents  
 1795 requiring mortgagee consent are enforceable.

1796 3. In securing consent or joinder, the association is  
 1797 entitled to rely upon the public records to identify the holders  
 1798 of outstanding mortgages. The association may use the address  
 1799 provided in the original recorded mortgage document, unless  
 1800 there is a different address for the holder of the mortgage in a  
 1801 recorded assignment or modification of the mortgage, which  
 1802 recorded assignment or modification must reference the official  
 1803 records book and page on which the original mortgage was  
 1804 recorded. Once the association has identified the recorded  
 1805 mortgages of record, the association shall, in writing, request  
 1806 of each parcel owner whose parcel is encumbered by a mortgage of  
 1807 record any information that the owner has in his or her  
 1808 possession regarding the name and address of the person to whom  
 1809 mortgage payments are currently being made. Notice shall be sent  
 1810 to such person if the address provided in the original recorded  
 1811 mortgage document is different from the name and address of the  
 1812 mortgagee or assignee of the mortgage as shown by the public  
 1813 record. The association is deemed to have complied with this  
 1814 requirement by making the written request of the parcel owners  
 1815 required under this subparagraph. Any notices required to be  
 1816 sent to the mortgagees under this subparagraph shall be sent to  
 1817 all available addresses provided to the association.

1818 4. Any notice to the mortgagees required under  
 1819 subparagraph 3. may be sent by a method that establishes proof  
 1820 of delivery, and any mortgagee who fails to respond within 60

1821 days after the date of mailing is deemed to have consented to  
 1822 the amendment.

1823 5. For those amendments requiring mortgagee consent on or  
 1824 after July 1, 2013, in the event mortgagee consent is provided  
 1825 other than by properly recorded joinder, such consent shall be  
 1826 evidenced by affidavit of the association recorded in the public  
 1827 records of the county in which the declaration is recorded.

1828 6. Any amendment adopted without the required consent of a  
 1829 mortgagee is voidable only by a mortgagee who was entitled to  
 1830 notice and an opportunity to consent. An action to void an  
 1831 amendment is subject to the statute of limitations beginning 5  
 1832 years after the date of discovery as to the amendments described  
 1833 in subparagraph 1. and 5 years after the date of recordation of  
 1834 the certificate of amendment for all other amendments. This  
 1835 subparagraph applies to all mortgages, regardless of the date of  
 1836 recordation of the mortgage.

1837 (6) RIGHT TO SPEAK.—Members and parcel owners have the  
 1838 right to attend all membership meetings and to speak at any  
 1839 meeting with reference to all items opened for discussion or  
 1840 included on the agenda. Notwithstanding any provision to the  
 1841 contrary in the governing documents or any rules adopted by the  
 1842 board or by the membership, a member and a parcel owner have the  
 1843 right to speak for at least 3 minutes on any item, ~~provided that~~  
 1844 ~~the member or parcel owner submits a written request to speak~~  
 1845 ~~prior to the meeting.~~ The association may adopt written  
 1846 reasonable rules governing the frequency, duration, and other  
 1847 manner of member and parcel owner statements, which rules must  
 1848 be consistent with this subsection.

1849           (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—  
 1850           (a) Elections of directors must be conducted in accordance  
 1851 with the procedures set forth in the governing documents of the  
 1852 association. All members of the association are eligible to  
 1853 serve on the board of directors, and a member may nominate  
 1854 himself or herself as a candidate for the board at a meeting  
 1855 where the election is to be held or, if the election process  
 1856 allows voting by absentee ballot, in advance of the balloting.  
 1857 Except as otherwise provided in the governing documents, boards  
 1858 of directors must be elected by a plurality of the votes cast by  
 1859 eligible voters. Any challenge to the election process must be  
 1860 commenced within 60 days after the election results are  
 1861 announced.

1862           Section 17. This act shall take effect July 1, 2013.